

Application No. 09/885,495

Response to Office Action of January 19, 2005

REMARKS

In the Office Action of January 19, 2005, claims 1-18 stand rejected. Claims 1-2, 4, 9 and 12 have been amended and claims 3, 5-8, 11, and 13-18 have been canceled. New claims 19-26 have been added. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks. No new subject matter is being added by this response.

I. CLAIM REJECTIONS.

A. 35 U.S.C. § 102 Rejections.

Claims 1-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,356,878 to Walker (hereinafter "*Walker*").

In order to maintain a 102 rejection, the single prior art reference must disclose each element of the claim. *In re Dillon*, 16 U.S.P.Q. 2d, 1897, 1908 (Fed. Cir. 1990) (en banc), cert denied 500 U.S. 904 (1991). Further, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d, 1915, 1920 (Fed. Cir. 1989). Not only must the same level of detail must be shown in the prior art, the prior art must disclose each and every element of the claimed invention, arranged as in the claims. *Hindemann Mashihenfabrile GMBH v. American Hoist & Derrick Co.*, 721 U.S.P.Q. 481, 485 (Fed. Cir. 1984).

Walker appears to disclose a conditional purchase offer buyer agency system. In this system buyers submit conditional purchase offers (CPO). The CPO specifies certain conditions that the buyer requires for purchase. For example, the buyer may wish to purchase tickets from L.A. to N.Y. The buyer may set certain conditions such as the number of stops, class of service and the like. One of more of these conditions can then be met by a seller to finalize the deal. *Walker* seems to further disclose conditions that expire after a time, triggering additional conditions.

The prior art of record fails to disclose each element of the claims as amended and does not disclose the identical invention as in the amended claims. For example, the applicant can not find, in *Walker*, the offering of currently rentable assets owned by a rental company as disclosed in claim 6. Also, Applicant can not find, in *Walker*, offering leased assets prior to the expiration of the lease. With regards to these claims, the Examiner merely argues that the claims fail to

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patentability limit independent claim 1. The Applicant argues that these claims further limit independent claim 1 and that these claims include patentable subject matter not found in *Walker*.

In an effort to advance prosecution, claim 1 has been amended to incorporate the limitations of claim 6. Claim 1 has been further amended to claim the selling of the automobiles that are rented until purchased. As discussed in the specification, this helps the rental car company to maximize income when selling cars from their inventory. Support for this amendment can be found in FIG. 3 of the application and the accompanying text. The Applicant cannot find, in *Walker*, the listing of rental cars available for sale and the rental of the rental cars until purchased.

Further, claim 9 discloses a system that includes a server operable to list rental cars for sale, where the rental cars are available for rental while listed. As discussed previously, Applicant cannot find these elements in *Walker*.

New claim 20 claims a method for selling automobiles that are leased prior to the expiration of the lease. This limitation is similar to the original claim 7. As discussed before, the Applicant cannot find such a limitation in *Walker*.

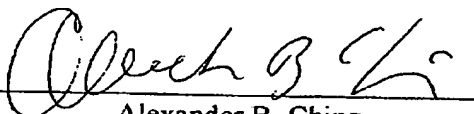
Claims 2, 4, 19 and 20 depend from allowable claim 1. Therefore, claims 2, 4, 19 and 20 are allowable. Claims 12, 12 and 26 depend from allowable claim 9. For at least this reason, claims 10, 12 and 26 are in condition for allowance. Claims 21-25 depend from allowable claim 20. For at least this reason, claims 21-25 are in condition for allowance.

II. CONCLUSION

For the foregoing reasons, the present application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

April 19, 2005
Date

By 
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